

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CARMELA GIORDANO GUGGINO,

Plaintiff,

-against-

KILOLO KIJAKAZI,<sup>1</sup>  
Acting Commissioner of Social Security,

Defendant.

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**AZRACK, United States District Judge:**

For Online Publication Only

**ORDER**  
20-CV-399 (JMA) (ST)

Pending before the Court are the parties' cross-motions for judgment on the pleadings, (ECF Nos. 10, 11), which I referred to Magistrate Judge Tiscione for a report and recommendation ("R&R"). Judge Tiscione recommends that: (1) Plaintiff's motion be granted, (2) Defendant's cross-motion be denied, and (3) the case be remanded to the Commissioner for further proceedings. (ECF No. 15.)

In reviewing a magistrate judge's report and recommendation, the Court must "make a de novo determination of those portions of the report or . . . recommendations to which objection[s][are] made." 28 U.S.C. § 636(b)(1)(C); see also Brown v. Ebert, No. 05–CV–5579, 2006 WL 3851152, at \*2 (S.D.N.Y. Dec. 29, 2006). The Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Those portions of a report and recommendation to which there is no specific reasoned objection are reviewed for clear error. See Pall Corp. v. Entegris, Inc., 249 F.R.D. 48, 51 (E.D.N.Y. 2008).

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<sup>1</sup> Kilolo Kijakazi became the Acting Commissioner of the Social Security Administration on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi is substituted for Acting Commissioner Andrew Saul as the defendant in this suit.

To date, no objections to the R&R have been filed, and the deadline for filing any such objections has passed. I have reviewed Judge Tiscione's R&R for clear error and, finding none, I hereby adopt Judge Tiscione's R&R as the opinion of the Court. Accordingly, Plaintiff's motion for judgment on the pleadings is **GRANTED** to the extent that the case is remanded to the ALJ; the Commissioner's cross-motion for judgment on the pleadings is **DENIED**; and this case is closed.

**SO ORDERED.**

Dated: September 30, 2021

Central Islip, New York

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/s/ (JMA)  
JOAN M. AZRACK  
UNITED STATES DISTRICT JUDGE